

1979 WL 42723 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 26, 1979

***1 RE: Status of Pharmacy Board Member Appointed by Governor Edwards**

Mr. John C. Wilkie, Jr.
S. C. Board of Pharmaceutical Examiners
P. O. Box 11927
Columbia, South Carolina 29211

Dear Mr. Wilkie:

You have asked this Office to advise you as to the current status of the member of the Board of Pharmacy previously appointed by Governor James Edwards, pursuant to that portion of [Section 40-43-10 of the Code of Laws of South Carolina, 1976](#), which empowers the Governor to appoint one Board member whose term shall be coterminous with the Governor's.

On January 10, 1979, when Governor Riley took the oath of office as Governor of South Carolina, the term of that Board member appointed by Governor Edwards expired. Since no successor has been appointed under the statute to fill this position, Governor Edwards' appointee has held over in office by operation of law and sits upon the Board of Pharmaceutical Examiners as a de facto member. [Langford v. State Board of Fisheries](#), 217 S.C. 118, 60 S.E.2d 59 (1950).

Consequently, while a vacancy exists which may be filled by appointment made by our present Governor, until such appointment is made, Governor Edwards' appointee to the Board holds over in a de facto capacity until his successor is appointed and qualified. [Bradford v. Byrnes](#), 221 S.C. 255, 70 S.E.2d 228 (1952). As such, actions taken by him as a member of the Board of Pharmaceutical Examiners are valid and he is entitled to the emoluments of that position. See 1964-65 Opinions of the Attorney General, p. 104. See also [Public Officers and Employees](#), 63 Am.Jur.2d, § 363.

Please advise me if this Office may be of further assistance to you.

Yours very truly,

M. Richbourg Roberson
Assistant Attorney General

1979 WL 42723 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.